

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

JARROD MCKINNEY,

*Plaintiff,*

v.

THOMAS J. VILSACK, in his official capacity  
as Secretary of Agriculture,  
*et al.,*

*Defendants.*

No. 2:21-cv-00212-RWS

**STATUS REPORT**

In accordance with the Court's August 30, 2021, Order, ECF No. 40, and Defendants' August 25, 2022, Status Report, ECF No. 44, Defendants respectfully submit this status report.

1. Plaintiff in this action challenges Section 1005 of the America Rescue Plan Act of 2021 (ARPA). Because Plaintiff was a member of classes certified by the District Court for the Northern District of Texas in *Miller v. Vilsack*, 4:21-cv-595 (N.D. Tex.), that similarly challenged the same statutory provision, Defendants moved for, and the Court granted, a stay of this action pending the outcome of the *Miller* litigation. *See* ECF No. 40 (Aug. 30, 2021).
2. On August 16, 2022, the President signed into law the Inflation Reduction Act of 2022. <https://www.congress.gov/117/bills/hr5376/BILLS-117hr5376enr.pdf>. Section 22008 of that Act expressly repeals Section 1005 of ARPA and thus moots this case.
3. On August 29, 2022, in light of the repeal of Section 1005, the parties in the *Miller* action stipulated to dismissal of the action because "the constitutional challenge to Section 1005 is moot." *See* Joint Stipulation of Dismissal, ECF No. 236, *Miller*, 4:21-cv-595 (attached as Ex. A). The *Miller* court subsequently terminated the case. *See* August 30, 2022 docket entry, *id.*

4. Defendants have been conferring with counsel for Plaintiff concerning the disposition of this matter for the past several weeks. Because Plaintiff's claims are moot, Defendants believe that Plaintiff should voluntarily dismiss his complaint. *See* Fed. R. Civ. P. 41. Defendants understand that Plaintiff is continuing to confer with his attorneys on how to proceed.
5. Nonetheless, because the *Miller* litigation is terminated, and because Plaintiff's claims are moot, Defendants propose to lift the stay of proceedings and file a motion to dismiss as moot on September 15, 2022, if Plaintiff has not dismissed this action before then.

Dated: September 8, 2022

Respectfully submitted,

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/s/ Michael F. Knapp  
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*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 8, 2022, a copy of the foregoing notice was filed electronically via the Court's ECF system, which effects service on counsel of record.

/s/ Michael F. Knapp  
Michael F. Knapp  
Trial Attorney